

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

ARISTA MUSIC, et al.,

Plaintiffs,

v.

TIME WARNER, INC., et al.,

Defendants.

No. 3:09-0827

JUDGE CAMPBELL

**DECLARATION OF DAVID DECKER IN SUPPORT OF DEFENDANT  
CRAZY MONKEY, INC.'S MOTION TO DISMISS FOR LACK OF  
PERSONAL JURISDICTION (FED. R. CIV. P. 12(b)(2)), OR IN THE  
ALTERNATIVE, TO DISMISS BASED ON IMPROPER  
VENUE (FED. R. CIV. P. 12(b)(3); 28 U.S.C. § 1406(a))**

I, David Decker, hereby declare:

1. I am over the age of eighteen and a resident of Los Angeles County, California. I have personal knowledge of the following facts and if called as a witness, could and would testify competently to them. I am Executive Vice President, Business & Legal Affairs for Telepictures Productions Inc. ("Telepictures") Telepictures is 100% owned by Burbank Television Enterprises LLC, which is 100% owned by Warner Bros. Entertainment Inc.

2. Telepictures entered into an April 1, 2002 written agreement ("Services Agreement") with Crazy Monkey, Inc. ("Crazy Monkey"), which loans out the artistic services of Ellen DeGeneres to The Ellen DeGeneres Show (the "Show").

3. While the Services Agreement gave Ms. DeGeneres the right to approve and consult with respect to certain staff and artistic elements, she has no authority or control over the Show's distribution. Indeed, in the Services Agreement, she waived her right, if any, to withdraw her artistic work on the Show from distribution. (Services Agreement, ¶ 9; Exh. D, ¶ 6(b)).

4. Crazy Monkey also granted Telepictures the right to "sell, distribute, use, produce, license, transmit, broadcast, publish and otherwise exploit [the Show], or any episode(s) thereof, throughout the universe ..." (Services Agreement, Exh. D, ¶ 7(a)). However, the Services Agreement expressly provides that "[n]othing shall be deemed to obligate Telepictures to distribute, exhibit or otherwise exploit [the Show]. Telepictures may do so or refrain therefrom as it may decide in its own absolute discretion ..." (Services Agreement, Exh. A, Section III; Exh. B, Section III). The Services Agreement also provides that "[Telepictures] shall have the right, but not the obligation, to exploit or distribute any one or more Series episodes in any media now or hereafter known throughout the Universe in perpetuity." (Services Agreement ¶ 6(b)).

5. Telepictures has an ageement with WAD Productions Inc. ("WAD"), a Delaware corporation, to produce the Show.

6. Telepictures has an agreement with Warner Bros. Domestic Television Distribution ("WBDTD"), pursuant to which WBDTD distributes the Show, among other productions. WBDTD is a division of Warner Bros. Television Distribution Inc., which is 100% owned by Burbank Television Enterprises LLC, which in turn is 100% owned by Warner Bros. Entertainment Inc. WBDTD distributes the Show in the United States, including any distribution in Tennessee.

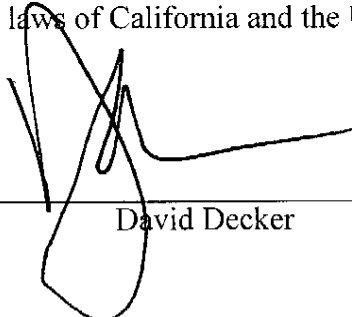
7. WBDTD has its own offices in Burbank, California, has its own employees, and controls its own day-to-day activities. WBDTD has no contractual relationship with Crazy Monkey, Inc.

8. All of the offices for the Show have been based in Burbank, California, first at NBC Studios and, as of summer 2008, at the Warner Bros. lot. All of the Show's employees worked out of those offices in Burbank, California. The pre-production work on the Show takes place at the Show's offices in Burbank, California.

9. Except for the small number of episodes that are taped "on location," the Show has always been taped before a live audience in Burbank, California – until last year at the NBC Studios and currently at a studio on the Warner Bros. lot.

Executed this 7<sup>th</sup> day of November 2009 at Burbank, California.

I declare under penalty of perjury under the laws of California and the United States that the foregoing is true and correct.

  
\_\_\_\_\_  
David Decker

**CERTIFICATE OF SERVICE**

I certify that I served a copy of this document via ECF on November 25, 2009, on:

Timothy L. Warnock, Esq.  
Tim Harvey, Esq.  
Riley Warnock & Jacobson, PLC  
1906 West End Avenue  
Nashville, Tennessee 37203  
*Counsel for Plaintiffs*

/s/ Stephen J. Zralek